

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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UNITED STATES OF AMERICA :
Plaintiff : CASE NO. 5:05 CR 131
: :
-VS- :
: :
THEODORE FLEMING : ORDER ACCEPTING PLEA AGREEMENT
Defendant : AND JUDGMENT AND NOTICE OF
: HEARING
----- :

UNITED STATES DISTRICT JUDGE LESLEY WELLS

This case is before the Court on a Report and Recommendation filed by United States Magistrate Judge James S. Gallas regarding the change of plea hearing and plea agreement of Theodore Fleming which was referred to the Magistrate Judge with the consent of the parties.

On 16 March 2005, the government filed a seven-count indictment against Theodore Fleming for conspiracy to possess with the intent to distribute and distribution of controlled substances in violation of 21 U.S.C. § 846, 21 U.S.C. § 841(a)(1), 21 U.S.C. § 841(b)(1)(B), 21 U.S.C. § 841(b)(1)(C), and 18 U.S.C. § 2. On 14 April 2005, a hearing was held in which Theodore Fleming entered a plea of not guilty before Magistrate Judge James S. Gallas. On 15 March 2006, Magistrate Judge Gallas received Theodore Fleming's plea of guilty and issued a Report and

Recommendation ("R&R") concerning whether the plea should be accepted and a finding of guilty entered.

Neither party submitted objections to the Magistrate Judge's R&R in the ten days after it was issued.

On de novo review of the record, the Magistrate Judge's R&R is adopted. Theodore Fleming is found to be competent to enter a plea. He understands his constitutional rights. He is aware of the charges and of the consequences of entering a plea. There is an adequate factual basis for the plea. The Court finds the plea was entered knowingly, intelligently, and voluntarily. The plea agreement is approved.

Therefore, Theodore Fleming is adjudged guilty of Counts One, Three, Seven, Eight and Eleven in violation of 21 U.S.C. § 846, 21 U.S.C. § 841(a)(1), 21 U.S.C. 21 U.S.C. § 841(b)(1)(C), and 18 U.S.C. § 2.

Sentencing will be:

12 June 2006 at 3:00 p.m.

**Courtroom 18-A
18th Floor the United States District Court
801 West Superior Avenue
Cleveland, Ohio 44113**

IT IS SO ORDERED.

/s/Lesley Wells
UNITED STATES DISTRICT JUDGE

Dated: 21 April 2006